

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

LPA No. 530 of 2019 (O&M)
Date of Decision: 11.03.2019

Haryana Staff Selection Commission through its Chairman/Secretary

—Appellant

versus

Satyender Kumar and othersRespondents

**CORAM: HON'BLE MR.JUSTICE KRISHNA MURARI, CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI, JUDGE**

Present : Ms. Shruti Jain, Deputy Advocate General, Haryana,
for the appellant.

KRISHNA MURARI, CHIEF JUSTICE (oral)

This intra-court appeal under Clause X of the Letters Patent has been filed by the Haryana Staff Selection Commission challenging the judgment and order dated 06.02.2019 passed by the learned Single Judge allowing the writ petition.

2. Facts in brief relevant for the adjudication of the controversy are as under:-

Haryana Staff Selection Board issued an advertisement dated 19.07.2015 inviting applications for appointment of 5000 male constables (general duty) in the police department, Haryana. The respondent-petitioner was also one of the applicants. He was issued an admit card for physical screening test which was held from 04.03.2016 to 22.03.2016. The result of the physical screening test was declared on 07.08.2016. The respondent-petitioner qualified the physical screening test and thereafter was called to

appear in the knowledge test which was held on 28.08.2016. He qualified the same as well. Thereafter the respondent-petitioner was issued an admit card for scrutiny of documents and for physical measurement test which was held in October-2016. Even though the measurements of height and chest of the appellant-petitioner were found to be as per the prescribed standard but the name of the appellant-petitioner was not mentioned in the list of successful candidates and thus he was not called for interview/personality test. The same was challenged by filing the writ petition. Learned Single Judge on 18.12.2018 after hearing learned counsel for the parties passed the following interim order:-

“Learned counsel for the petitioner states that this petition survives only qua petitioner No.12 Anurag Singh, his result has been produced in Court today. In the Physical Measurement Test, he has not qualified the measurement of his height and chest. He has 173 normal chest add 89.5 cm expanded chest. Result is being returned back.

Learned State counsel will file reply to this application bearing CM No. 12646-CWP of 2018 explaining if the petitioner had fulfilled the criteria PET in Delhi (Annexure A-2). A perusal of the result dated 25.10.2016 conducted by Haryana Staff Selection Commission and Staff Selection Commission result Annexure A-2 conducted on 16.09.2016 shows that there is only a gap of one month in conducting the physical measurement test in the both selection process . In the selection process of Delhi (Annexure A-2) minimum standard of chest unexpanded was 84.5 cm whereas in the present case the petitioner has secured 80.0 cm the difference of 4.5 cm within one month does not seem to be. Keeping in view the difference of 4.5cm. a direction is being issued to Government Hospital Sector -6 Panchkula to constitute a medical Board to do the Physical measurement test of petitioner No.12 of height an chest. Report be sent.

Petitioner at the same time will give physical measurement test conducted in the Chandigarh selection process and subsequent Delhi test to the respondent-Commission.”

3. Learned counsel for the appellant-petitioner states that this petition survives only qua petitioner No.12 (contesting respondent herein). His result had been produced in the Court today. In the physical measurement test he had not qualified the measurement of height and chest. He has 173 normal chest and 89.5 cm expanded chest.

4. Thereafter the learned Single Judge required the State counsel to file reply to the application bearing CM No.12646-CWP of 2018 explaining that if the candidate had qualified the criteria of physical measurement test in Delhi, how he was disqualified in the test held by the Commission within a gap of one month and thus issued a direction to the Government Hospital, Sector 6, Panchkula, to constitute a Medical Board to do the physical measurement tests of the appellant-petitioner of height and chest. Accordingly, in pursuance to the aforesaid direction of the learned Single Judge, the physical measurement test was carried out in the hospital and the report was produced in the Court and on perusal whereof the following order was passed on 14.01.2019:-

“Report dated 14.1.2019 submitted by Civil Hospital, Panchkula has been perused. Petitioner Anurag Singh's height measured at 172 cm and Chest Inspiration 100 cm and Expiration is 91 cm which is far better than the prescribed minimum physical measurements for recruitment of Constables. The minimum height required is 169 cm and Chest Inspiration should be 85 and Expiration 81 cm. The last selected candidate in the BCA category, to which the petitioner belongs, secured 58.15 marks while the petitioner has got 60 marks as per the physical measurement carried out as per Court directions.

In the face of this report submitted by Government Hospital Panchkula, Ms. Shruti Jain Goyal, learned DAG Haryana prays for a week's time to obtain instructions regarding the vacancy position existing as on today and vacancies which are likely to arise in the near future to consider the case of the petitioner in the light of the report."

5. The case was contested by the Commission before the learned Single Judge on the ground that since there are contrary reports, the first was correct and the measurement carried out by the agents of the Commission should not be easily repudiated or faulted and thus he was rightly declared unfit.

6. Learned Single Judge proceeded to hold that there was no reason or occasion to discard the process concluded at the Civil Hospital, Panchkula and since the vacancies were available and no third party rights would be unsettled, allowed the writ petition. He, however, restricted the actual monetary benefits from the date of appointment while other rights were granted notionally from the retrospective date of appointment of candidates lower in merit in the same recruitment process.

7. No cogent reason has been specified by learned counsel for the appellant during the course of arguments as to why report of the physical measurement test conducted by the Board of Doctors at Civil Hospital, Panchkula under the orders of this Court was not liable to be accepted. Secondly, the report of the Civil Hospital, Panchkula is in tune with the physical measurement report of the answering respondent carried out in the selection process at Delhi. Two reports declared the physical measurement of the appellant-petitioner to be in accordance with the prescribed specifications.

8. In view of the above facts and circumstances discussed hereinabove, no illegality is reflected from the view taken by the learned Single Judge requiring any interference in the impugned order.
9. The appeal is devoid of merits and accordingly stands dismissed.

(KRISHNA MURARI)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

11.03.2019
ravinder

Whether speaking/reasoned	√Yes/No
Whether reportable	√Yes/No